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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

PRENTICE FOREMAN,

Defendant and Appellant.

F037413

(Super. Ct. No. 81023A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Clarence Westra Jr., Michael B. Lewis, Richard J. Oberholzer, Judges.[†]

William A. Davies, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, David P. Druliner, Chief Assistant Attorney General, Robert R. Anderson, Jo Graves, Senior Assistant Attorney General, and Michael J. Weinberger, Deputy Attorney General, for Plaintiff and Respondent.

* Before Harris, Acting P.J., Cornell, J., and Reed, J.^{††}

† Judge Westra heard appellant's motion to change counsel. Judge Lewis ruled on appellant's competency. Judge Oberholzer took appellant's guilty plea and sentenced him.

†† Judge of the Tulare Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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Appellant Pretince Foreman pled guilty to petty theft with a prior felony conviction.¹ Foreman also admitted an enhancement for having served a prior prison term. The trial court sentenced Foreman to prison for the upper term of three years plus one year for the prior prison term enhancement for a total sentence of four years. Foreman was ordered to pay a restitution fine and granted applicable custody credits.

Foreman's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, raises no issues, and requests this court independently to review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that he advised Foreman that he could file his own brief with this court. By letter of June 10, 2001, we invited Foreman to submit additional briefing.

Foreman contends the trial court failed to rule on his *Marsden* motion and that his trial counsel coerced him to change his plea to guilty. There is no certificate of probable cause in the instant action so our review is limited to suppression motion issues and sentencing. To the extent Foreman is challenging the validity of his plea, we have no jurisdiction to consider his contention on appeal. (See *People v. Panizzon* (1996) 13 Cal.4th 68, 74-79; *People v. Young* (2000) 77 Cal.App.4th 827, 830-832.) To the extent Foreman's issue letter can be construed as a challenge to the validity of his sentence, we find no error in the trial court's imposition of sentence.

¹ Prior to his plea, Foreman filed a motion pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 seeking to discharge his counsel. Foreman, who was free on bail at the time, claimed his counsel threw rocks at his home. Trial counsel denied the allegation. The trial court suspended proceedings pursuant to Penal Code section 1368 and appointed a psychiatrist to examine Foreman. The psychiatrist concluded Foreman was malingering. The trial court held a hearing and found Foreman was competent to assist with the proceedings and Foreman changed his plea to guilty.

After independent review of the record, we have concluded no reasonably arguable legal or factual argument exists.

DISPOSITION

The judgment is affirmed.